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August 11, 1994

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AUG 11 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Mr. Richard Engelman, Chief  
Technical Standards Branch  
Federal Communications Commission  
2025 M Street, N.W., Room 7122-B  
Washington, D.C. 20554

Re: FCC Docket No. 93-61; Automatic Vehicle  
Monitoring/Location Monitoring Service, 902-928 MHz.

Dear Mr. Engelman:

This office represents the American Radio Relay League, Incorporated, the national association of amateur radio operators in the United States. The League has been an active participant in the above-referenced docket proceeding, having filed comments June 29, 1993; reply comments July 29, 1993; and replies to ex parte presentations March 29, 1994.

In addition, the League made an ex parte presentation in connection with the Docket 93-61 proceeding to the office of the Deputy Chief, Private Radio Bureau on June 16, 1994, notice of which was timely filed. Finally, there is pending with the Commission a petition for rule making, which has not yet been accorded a file number, addressing use of the 902-928 MHz band by radio amateurs. The petition was filed January 13, 1994, and copies were submitted for the record in the instant proceeding with the League's replies to ex parte presentations on March 29, 1994.

Other than the above, the League has never been contacted by Commission staff concerning this proceeding, in which the Amateur Service has a critical interest, as the record in this proceeding shows. It was, therefore, a great surprise to the undersigned to discover that you had contacted apparently a select few of the participants in this proceeding to request input on a frequency plan to "resolve" the LMS proceeding, including telephone calls to certain of the attorneys who had been previously involved in the case. It is my understanding that you asked for feedback from these parties by tomorrow, August 12, 1994, and that you presented them with the details of the band plan. This band plan provided for non-multilateration systems at 902-924 MHz; 926-928 MHz, and possibly at 910-920 MHz, though there would apparently be an "option" for multilateration systems in that segment. Multilateration systems would occupy 904-910 MHz, and 926-928 MHz.

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I understand that Part 15 users would be entitled to use the entire band, with certain limitations at 910-920 MHz.

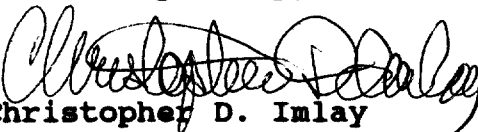
The American Radio Relay League takes strong exception to the closed nature of the negotiated rulemaking process which has apparently been used in this proceeding. The League has a distinct interest in continued and expanded use of the entire 902-928 MHz band by amateur radio operators, and suggests that the Commission's failure to include the League in the Commission-initiated discussions with participants in the proceeding is highly prejudicial to a fair and equitable determination of the ultimate resolution thereof.

The League therefore would like to know why it was not asked for input by August 12 on the proposed channel configuration disseminated to select individuals in the proceeding. We would also like to know why the League was not informed, as were other parties in this proceeding, that the Commission's intention was to proceed directly with a Report and Order in this proceeding, apparently based on input received in response to the select request from the Commission to certain of the parties in the proceeding. Finally, we would like to know whether the select parties that were asked for input, or any of them, were told of any particular band configuration that the staff "favored" in this proceeding, and why that same information was not imparted to all parties in this proceeding.

The League suggests that the procedure used by the Commission in this case is eminently unfair to the League and certain other parties, and that the Amateur Service has been prejudiced by it. Furthermore, the League requests that this proceeding either be terminated without action, having been tainted by evidence of bias in favor of certain parties, or at the least, that the Commission's alternative plans, having been selectively disclosed to certain parties, be published in a further notice and made available for comment by all parties to the proceeding including the League, and by the public in general.

We look forward to your response.

Yours very truly,



Christopher D. Imlay

cc: Ralph A. Haller  
Beverly Baker, Esq.  
Andrew S. Fishel